

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

BRIAN GOLSBY,	:	NO. 1:13-CV-00157
	:	
Plaintiff,	:	
	:	
vs.	:	OPINION AND ORDER
	:	
ROB JEFFREYS, et al.,	:	
	:	
Defendants.	:	

This matter is before the Court on the Magistrate Judge's Report and Recommendation (doc. 49), and Plaintiff's Objection (doc. 51). For the reasons indicated herein, the Court ADOPTS and AFFIRMS the Magistrate Judge's Report and Recommendation and DISMISSES this matter from the Court's docket.

Plaintiff is an inmate currently incarcerated at the Toledo Correctional Institution, but previously incarcerated at the Lebanon Correctional Institution (LeCI) (doc. 49). While at LeCI he alleges he faced threats of violence and was involved in violent altercations from which Defendants allegedly failed to protect him (Id.). Plaintiff filed a grievance regarding his concerns, but the record shows he filed the instant matter prior to the completion of the grievance appeal (Id.). As such, the Magistrate Judge found Defendants' argument correct that Plaintiff failed to exhaust his administrative remedies as required by the Prison Reform Litigation Act (Id. citing Freeman v. Francis, 196 F.3d 641, 645 (6th Cir. 1999)).

Plaintiff has objected to the Report and Recommendation, contending he could not wait for the grievance procedure to be exhausted because his life was in danger (doc. 51). He appears to argue that because he sought injunctive relief in his Complaint, the Court should forgo the exhaustion requirement.

Having reviewed this matter, the Court finds the Magistrate Judge's conclusion correct that Plaintiff failed to exhaust his administrative remedies prior to filing this suit. At this juncture, as Plaintiff has been moved to another institution, it is unclear what sort of injunctive relief, if any, is applicable to protect Plaintiff from threats of violence at LeCI, where he is not housed. The clear mandate of the PLRA requires exhaustion of administrative remedies prior to filing federal suit. Jones v. Bock, 549 U.S. 201, 204 (2007). By filing his Complaint too early, Plaintiff did not comply with the PLRA and Defendants are therefore entitled to judgment as a matter of law.

Proper Notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. United States v. Walters, 638 F.2d 947 (6th Cir. 1981). As of the date of this Order, no objections have been filed.

Having reviewed this matter de novo pursuant to 28 U.S.C. § 636, the Court finds the Magistrate Judge's Report and Recommendation thorough, well-reasoned, and correct. Accordingly, the Court hereby ADOPTS and AFFIRMS the Magistrate Judge's Report

and Recommendation (doc. 49), GRANTS Defendants' Motion for Summary Judgment (doc. 34), and DISMISSES Plaintiff's Complaint without prejudice. The Court further DENIES the remaining pending motions (docs. 35, 42, 43) as moot, and TERMINATES this matter on the Court's docket.

SO ORDERED.

Dated: June 24, 2014

s/S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge